UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1998/11
26 June 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-ninth session
Item 5 (a) of the provisional agenda

THE IMPLEMENTATION OF THE HUMAN RIGHTS OF WOMEN

TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

Second report on the situation regarding the elimination of traditional practices affecting the health of women and the girl child, by Mrs. Halima Embarek Warzazi

GE.98-12974 (E)

Introduction

1. By its resolution 1997/8 of 22 August 1997, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Special Rapporteur to submit to the Sub-Commission, at its next session, her second follow-up report on the situation regarding the elimination of traditional practices affecting the health of women and the girl child, in the framework of the Plan of Action it had adopted in August 1994 (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1).

2. This second report is therefore submitted in implementation of the above-mentioned resolution.

3. It will be recalled that, by its decision 1997/108 of 11 April 1997, the Commission on Human Rights responded favourably to the Sub-Commission's recommendation to extend the mandate of the Special Rapporteur for a further two years.

4. In 1997 the Special Rapporteur had again deplored the small number of replies received from Governments, and particularly from those concerned by traditional practices affecting the health of women and the girl child. In 1996 she had noted that only some 25 countries had replied to the note by the Secretary-General concerning the Plan of Action, whereas in 1997 the silence of Governments had been even greater, only 7 countries having replied to the Special Rapporteur. In 1998 the Special Rapporteur received only four replies, which obviously confirms her statement in the conclusion of her last report (E/CN.4/Sub.2/1997/10 and Add.1) that "the silence of many States concerned justifies unflinching mobilization both nationally and internationally".

5. This mobilization has been a factor in the positive, although slow, development of the situation regarding traditional practices affecting the health of women and the girl child.

6. The information which the Special Rapporteur has sought to obtain throughout the year, through surveys and media reports, as well as in international seminars and meetings, gives grounds for optimism, in spite of the disappointing results achieved so far.

7. Notwithstanding the magnitude of the task involved in combating harmful traditional practices with a view to their eradication, there can be no reason for pessimism and lassitude. It is imperative that the course embarked upon should be pursued with the same determination to succeed and with perseverance, which alone can eliminate obstacles, with unlimited faith in the dignity of all human beings and, in particular, of the women and girl children who are most deprived of that dignity.

8. This report will therefore endeavour to examine the current situation, drawing attention to the serious dangers which harmful traditional practices entail for hundreds of millions of victims, but also to the hopes created by the progress achieved thanks to the national and international awareness campaigns that have been conducted, to the dedication of the many NGOs concerned and to the political will of certain Governments.

I. ANALYSIS OF REPLIES FROM GOVERNMENTS

A. Guatemala

9. This substantial reply responds fully to the Sub-Commission's request. It is concerned with "implementation of the Plan of Action for the Elimination of Harmful Traditional Practices Affecting the Health of Women and Children" drawn up by the Presidential Commission for coordination of the executive's policy on human rights (COPREDEH).

Preference given to the male child

10. In view of the fact that the family is the basic institution for the cultivation of moral and spiritual principles through the joint efforts of the father and the mother, a proposal for amendment of article 253 of the Civil Code concerning the obligations of both parents is currently being examined by the Commission on Constitutional Questions and Reform. Under this amendment, the article would make it an obligation for the father and mother to ensure that their daughters or sons are of good conduct, to encourage their development, their decision-making capacity, their critical sense and their sense of responsibility, and to inculcate in them self-discipline. They would also have an obligation to bring up their daughters and sons so that each assumes a fair share of the household tasks and family decision-making, and so that they will participate in their community's affairs and in the political, cultural, economic and social life of their country.

11. Under the criminal laws, the parents are held responsible in the event of their children being materially and morally abandoned and if the parents no longer assume their obligations.

Inheritance

12. The laws of Guatemala provide for no discrimination as regards women and inheritance. However, in the practices of the indigenous population some preference is still given to the son.

13. The Government has therefore developed a draft national policy for the advancement and development of Guatemalan women.

14. The Equality of Opportunity Plan 1997-2001, drawn up on the initiative of the social work secretariat established by the wife of the President of Guatemala, aims to create awareness in society with a view to eliminating discrimination against women, wherever it may occur, in other words to promote a change of attitude in order to abolish discriminatory customs that prevail mainly among the rural population which has had limited access to education.

Early marriage

15. The age of majority as provided by law (18 years) determines the age for marriage. However, marriage may take place if the groom has reached the age of 16 years and the bride the age of 14 years, on condition that they obtain the consent of their father and of their mother or of the person acting as their guardian.

16. A proposal has been submitted for amendment of article 81 of the Civil Code dealing with marriage with a view to ensuring the same minimum age for marriage for both men and women, so that upon reaching the age of 16 years they will have the same rights. The object of this change is to eliminate the sexist stereotypes and patriarchal attitudes which restrict the conditions of development as between men and women.

Civil status

17. Guatemalan law requires that all events affecting the civil status of persons be entered in the civil register.

18. Article 4 of the Civil Code has been amended in order to eliminate socio-cultural discrimination, particularly that suffered by single mothers as regards the registration of their children. The new article provides, inter alia, that the sons of single mothers (who are not recognized by their father) shall be registered under the mother's name, while sons whose father and mother are unknown must be entered under the name of the person or institution registering them.

19. In the case of minors already recorded with one name in the civil register, the mother or the person acting as guardian may go to the registry office again and expand the relevant entry by entering the two names.

Reproductive health

20. The Minister of Health has set up a programme entitled "Women, health and development" designed to benefit women.

21. An NGO, the Association for the Future Welfare of the Family, is carrying out education activities concerned with the sexual education of women and men, family planning and the prevention of venereal diseases. This organization is also providing low-cost medical services that are accessible to people with a low economic level of living.

Childbirth practices

22. Since it is the custom for childbirth to take place in the home, particularly in the interior of the country, the Minister of Health has organized training programmes for traditional midwives in areas lacking welfare centres.

23. Guatemala's Indigenous Development Fund, set up in July 1994 by a decision of the Government, is designed to support and strengthen the human development process, with the support of communities and organizations provided within the framework of their own particular policy. The Fund contributes to improvement of the quality of life by executing and financing economic, social and cultural programmes and projects. These projects include the training of traditional midwives and the cultivation of medicinal plants. This policy, designed to cover rural areas where there are no health services, also benefits from technical cooperation between the Ministry of Health, WHO and the Pan-American Health Organization.

24. The above-mentioned institutions have also carried out activities aimed at ensuring access to health services for migrant workers and their families, and particularly for migrant women, to enable them to receive appropriate treatment during the various stages of reproduction.

25. Means of contraception are made available to women and messages concerning reproductive health, in the principle languages of the region, are disseminated in coordination with community leaders, couples and religious authorities, with the aim of spreading knowledge of modern contraceptive methods.

Violence against women and the girl child

26. Although female genital mutilation does not exist in Guatemala, the law penalizes any physical harm caused to a person and classifies it as bodily injury.

27. In 1982 Guatemala ratified the Convention on the Elimination of All Forms of Discrimination Against Women and, in 1995, the Government also ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.

28. In accordance with the obligations thus assumed, the Government issued a decree, adopted by the Congress, introducing a "Law to prevent, sanction and eradicate violence in the family". Measures are planned that aim to guarantee the life, integrity, security and dignity of victims of acts of violence. Special protection is planned for women, boys, girls, young people and elderly and handicapped persons, with special account being taken of the specific situation of each case.

29. The police, the Defender of Women's Rights, the Procurator for Human Rights and other governmental, judicial and university bodies have been designated to receive complaints from victims.

30. The Attorney-General has responsibility for the public policies developed for the prevention, monitoring, punishment and eradication of violence in the family. It is also his responsibility to ensure that the Conventions are observed and that their provisions are implemented by the authorities, officials, personnel and employees of the country's institutions.

31. In addition, with the aim of promoting a change in society's attitude towards the role and status of women in all fields, a Women's Week, proclaimed by the Congress, is held every year in the month of March. It comprises a number of cultural and information activities designed to increase public awareness.

32. Finally, lectures are given to police force personnel on the subject of observance of the principle of equality, non-discrimination and the rights of the child and of women.

General measures taken by the Government in support of women

33. The topic of women and their protection was duly incorporated in the Peace Agreements concluded between the Government and the National Revolutionary Union of Guatemala. These texts devoted special attention to women heads of household and to widows and orphans. The Government has undertaken to eliminate all forms of discrimination against women and to facilitate their access to land, housing and credit, as well as their participation in development projects forming part of the global development strategy.

34. In view of the vulnerability of indigenous women, who suffer from a twofold discrimination, the Government has decided:

(a) to promote legislation classifying sexual aggression as an offence that will be treated as aggravated if committed against an indigenous woman;

(b) to establish an office of Defender of Indigenous Women;

(c) to promote the publicizing and strict implementation of the Convention on the Elimination of All Forms of Discrimination Against Women;

(d) to revise the formal and non-formal education manuals intended for indigenous people in order to eliminate from them any cultural stereotypes or stereotypes based on sex.

35. The Government has also sought to take account of the special economic and social situation of women and to integrate them into development strategies, plans and programmes.

36. The Government has recognized the equality of rights of women and men, in the home, at work, in production and in society and politics. It has undertaken to ensure for women equality of access to education and training and access on an equal footing with men to health care in employment and to decision-making at the local and national levels, as well as their participation in Government. The laws now in force will be amended to ensure fulfilment of these commitments.

37. It should be noted that the Guatemalan authorities have decided to take the necessary measures to encourage political and social organizations to adopt specific policies that will help women to participate in the process of strengthening the civil power.

38. A Women's Forum was set up in 1997 in order to follow up the commitments assumed by the Government.

39. Furthermore, since 1992 the Government has taken legislative, administrative, educational and awareness-building measures to bring an end to all forms of discrimination against women and the girl child. Special emphasis has been placed on the education of girl children, the granting of scholarships and learning materials, and on measures to encourage parents who can contribute to this goal and a campaign has been carried out to stress the importance of girl children and their education, particularly in rural areas.

40. The Government has provided a list of programmes, reforms and activities for the benefit of children, undertaken in the spirit of the Convention on the Rights of the Child.

41. The Special Rapporteur takes note with satisfaction of this report, which shows the political will of the Guatemalan Government to implement the norms and plans adopted by the international community in order to ensure the promotion and protection of human rights.

B. United Kingdom of Great Britain and Northern Ireland

42. In its introduction, the report indicates the main points of the action taken by the ministerial Department of Health in favour of the black and ethnic minorities living in the United Kingdom. The promotion of a policy leading to equality of access to employment and to the services that are provided is one of the measures designed to promote the health of these minority groups.

43. According to the report, steps have for some years been taken by the Department to improve the access of women and children, including the girl child, to health care. The research undertaken and the development programmes carried out are directed towards the needs of women belonging to ethnic minorities. For example, a study has been made to gain understanding of certain health problems experienced by Asian women and to find solutions.

44. The questions of suicide and mental health form part of the goal of "a healthier nation" which the Department of Health has set itself.

45. The Department has also carried out a large-scale survey of the current infant feeding practices in the Asian community. This survey revealed a number of problems in the methods of infant feeding that will be taken into consideration by the medical corps in the advice it has to give to the Asian communities.

46. A large number of black and ethnic minority community organizations are financed by the Department. Some of these, set up for women, deal with problems relating to domestic violence, suicides and children.

47. Annex B to the report is more substantial and deals with female genital mutilation. In 1980 it was discovered that female circumcision was practised in the United Kingdom by migrants and refugees from African countries. This discovery led to the enactment, in 1985, of legislation prohibiting female circumcision. Any person who has contributed in any way to the carrying out of this practice or who has agreed to be its victim, has committed a punishable offence under this legislation.

48. The Children's Act, of 1989, provides for legal protection of children. The local authorities are entitled to intervene, if necessary, to prevent the causing of any harm to children that may cause them suffering. For example, the law does not allow parents to have their girl child undergo excision outside the United Kingdom unless with the consent of the courts. Since October 1991, the local authorities, the police, schools, the health authorities, the medical corps and a large number of organizations concerned

with child welfare have received a document containing recommendations that include specific information concerning female genital mutilation. In close coordination with the Foundation for Research on Women's Health and Development, the Department has taken a number of initiatives to find the key elements of a method that can serve as a model for prevention of the practice of female genital mutilation.

49. The report then goes on to describe the United Kingdom's Department for International Development and the policy adopted regarding traditional practices affecting the health of women and the girl child, such as female genital mutilation. This policy consists in persuading the countries where this practice takes place to adopt measures that will reduce it and eventually eliminate it. The report points out that female genital mutilation is both a health problem and a human rights problem.

50. Following the International Conference on Population and Development, held in 1994 and the Fourth World Conference on Women, held in 1995, one of the aims of the assistance provided by the Department for International Development in the area of reproductive and sexual health has been to assist developing countries to take action against female genital mutilation, through financial and technical assistance and the provision of support to women wishing to develop awareness among the populations concerned.

51. The report takes note, however, of the fact that female genital mutilation is a delicate subject for the Governments in many developing countries. The Government therefore draws attention to the fact that its efforts to influence attitudes are undertaken in a framework of discrete diplomacy, accompanied by support for the strengthening of legislation against female genital mutilation. It recognizes, however, that the desired changes in cultural attitudes will take many long years to achieve. Moreover, since it is not possible to impose projects for the elimination of the practice, the Government prefers to support groups of African women in their action to develop awareness among the societies concerned, and to support Governments that have developed national programmes for the elimination of female genital mutilation.

52. The Department lends its support to activities undertaken in this field by WHO. It also encourages NGOs to conduct local and regional workshops and to implement their projects to combat the practice of female genital mutilation and to improve the social and economic status of disadvantaged communities. The Department also finances radio programmes and the development of strategies based on the study of practices prejudicial to women, to be applied by authorities responsible for health policy, and it makes a substantial contribution to UNIFEM and to the Trust Fund in Support of Actions to Eliminate Violence Against Women.

53. In conclusion, the Department for International Development considers that female genital mutilation must be recognized and treated as a major concern in the area of reproductive health.

54. The Special Rapporteur is pleased to note (as she did in her previous report with regard to the Canadian International Development Agency) the commitment of the United Kingdom Government's Department for International

Development. Its policy of material and financial assistance to combat female genital mutilation, and the poverty and ignorance prevailing in disadvantaged countries and societies, deserves strong encouragement, particularly since the policy is based on a realistic logic and an objective analysis of harmful traditional practices, which greatly facilitates relations among countries, as well as women who wish to put an end to these practices.

C. Israel

55. According to the reply received by the Special Rapporteur, female circumcision is rare in Israel, although it is not unknown. The exact figures are not known, but it is estimated that less than 1 per cent of women in Israel have been circumcised.

56. The ritual genital operation carried out on women is a normative practice in several Bedouin tribes in the south of Israel. The Bedouin women among whom this practice prevails refer to female circumcision, not in anatomical terms, but rather as "purification". In 1992, Bedouin females between the ages of 16 and 45 belonging to six different tribes were interviewed on the subject of the operation they had undergone. They said that all the women in their families had been operated on. The age for this mutilation varied between 12 and 17 years, before marriage. Most of the women, with the exception of two young women better educated than the others, stated that they would continue the practice of this ritual female genital operation on their daughters.

57. A medical examination of the women of these tribes revealed that the operation was not a clitoridectomy. Nevertheless, all the women still recall the loss of blood and the pain suffered during the operation. They indicated that, for several months, they had suffered during sexual relations. However, they did not attribute these problems to the operation, of which in most cases they approved.

58. This Bedouin rite is at present legal in Israel, but it would be declared illegal under draft legislation that has been placed before the Knesset.

59. Jewish Ethiopian women who have migrated to Israel have said that this practice forms part of the culture in Ethiopia but that they do not wish to perpetuate it in Israel. The Israeli Government authorities have achieved some success in their efforts to discourage the continuation of this practice by Ethiopians.

D. Qatar

60. The reply of the State of Qatar is all the more appreciated as it is the first one sent to the Special Rapporteur by a country of the region.

61. In its introduction, the State of Qatar reports that change and progress has taken place during the twentieth century in all areas: health, education, social and economic conditions and life expectancy. The educational renaissance that has taken place in the country has greatly helped to bring about change in customs and traditions that were prejudicial to the health of

individuals and of society. For Qatar, the twenty-first century will be a further period of progress, welfare, construction, planning and innovation. Thanks to the progress that has already been made and to the maturity the modern world has achieved during this century, many beliefs and customs that formerly harmed the health of women and children have disappeared forever.

Cure by fire

62. This is a very old tradition that has spread throughout rural areas and among the tribes. The practice is carried out by a known personality with experience of the practice, which he has inherited in accordance with the custom. Its purpose is to treat certain illnesses such as inflammation of the spleen, jaundice, abscesses, irritations and pain in the joints due to rheumatism. However, with access to information and to the benefits of modern medicine, this practice will inevitably disappear.

Witchcraft and charlatanism

63. Islam prohibits witchcraft and charlatanism. They are therefore prohibited under the law of Qatar. Any person who engages in these practices is liable to imprisonment as provided by Islamic law. No person in Qatar now engages in these practices. This is fortunate, because formerly witch doctors, under the pretext of caring for patients, took control of them and made them behave in their interest.

Early marriage

64. The cultural and educational development that has taken place in Qatar has led girls to continue studying up to university level and this has contributed to a delaying of the age of marriage.

Childbirth at home

65. All women in Qatar give birth under medical supervision in clinics and, following delivery, are closely followed by the maternal health services.

Female circumcision

66. This is an ancient practice carried out on girl children between the ages of seven and nine years. It was formerly widespread among the tribes of Qatar but has now totally disappeared.

67. The Special Rapporteur welcomes the reply from Qatar and expresses the hope that it will enable other countries of the region to respond favourably to the Secretary-General's notes requesting the submission of information concerning harmful traditional practices and measures to be adopted for their eradication.

E. Mexico

68. The report from the Government of Mexico indicates that traditional practices such as are described in the report submitted to the Commission on Human Rights at its forty-ninth session do not exist in Mexico. However,

there are other practices which may affect the health of women, such as early maternity. There is also a custom according to which, in some communities, a man who has committed a theft is not punished if he marries his victim. This results in the woman being twice victimized. On the other hand, there is also the practice according to which the fiancé abducts his future wife. This saves the families the cost of a formal wedding. There are also certain beliefs which may cause harm, for example the belief that a pregnant woman runs a risk if she exposes herself directly to an eclipse or to a full moon and the belief concerning the "loss of one's shadow", in other words, the possibility of a person losing or suffering the theft of their soul through witchcraft or chastisement.

69. The Mexican Government considers (rightly, moreover, in the Special Rapporteur's view) that certain traditional practices should be maintained, one example being breastfeeding, which is becoming less common. The Government is also encouraging a strengthening of the dialogue between modern medicine and the traditional medicines, which are sources of useful information.

70. Certain practices, directly associated with beliefs and customs, are designed to affirm the superiority of men and the subordination of women.

71. The dissemination in the media of aggressive images that flout rights of which women are ignorant is often the cause of various forms of violence directed against women, including domestic violence.

72. Action to combat violence, and the penalization and prevention of violence, are matters of public importance for the Government and all sectors of national life.

73. In 1989 three centres were set up by the Department of Justice in the Federal District: the first of these centres is intended for the victims of domestic violence; the second is for lost persons or runaways and the third is for the victims of offences, particularly minors and the handicapped.

74. The legislation relating to sexual offences was amended in 1991 and, in 1993, the State found itself constitutionally obliged to provide legal and medical aid to victims of such offences and to ensure their compensation. Several other legislative and administrative measures were taken to counter violence. The Senate will shortly be ratifying the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.

75. Pursuant to paragraph 2 of the Sub-Commission's resolution 1997/8 relating to article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, the Mexican Government has adopted a number of measures designed to ensure that women participate fully and on the same footing as men in the economic, social, political and cultural life of the nation. The Alliance for Equality, a national programme for women in the period 1995-2000 should permit achievement of the goals that have been set. This programme comprises nine general objectives, including action to combat violence against women. The Advisory Council, an organ for evaluation and promotion of the activities undertaken, assists in the overall coordination of this programme.

76. Many measures are planned in the field of legislation to prevent and to punish with the maximum rigour the offences of violence against women in all its forms. Consideration is being given to a proposal to include in the legislation a chapter entitled "Domestic violence", whose aim will be to ensure harmony in the home under pain of repressive measures.

77. After citing some figures concerning victims who have received assistance, the Mexican Government mentions, in conclusion, the seminars, round tables and conferences held and the activities undertaken to inform, develop awareness in and mobilize all sectors of society against violence in all its forms, as well as programmes of aid to and rehabilitation of victims.

F. Finland

78. In Finland, Finnish children and the children of immigrants enjoy the same rights.

79. The Finnish Government states that, having ratified the Convention on the Rights of the Child, it has undertaken to abolish circumcision (mutilation). Under Finnish legislation, genital mutilation of women and the girl child is a crime punishable under the Criminal Code, whether it is committed in Finland or abroad. According to the severity of the operation, the penalty may entail several years of imprisonment.

80. Finland's basic education includes information on this topic and all young people attending school are therefore informed. As for women and children who have come from countries with different cultures, they too are informed of the harm caused by female genital mutilation and of the penalties which this practice entails. A brochure on the subject, published by the Ministry of Labour and the Ministry of Social Affairs, is distributed to foreign women.

81. Courses have been held for members of the medical profession in order to prepare them for treating immigrants from such countries as Somalia.

82. The social security services and members of the medical professions, as well as teachers, have an obligation to intervene in situations where the health and development of a child are threatened.

G. Portugal

83. With reference to the plan of action for the elimination of traditional practices affecting the health of women and children, the Government has reported that such practices do not exist in Portugal. They are nevertheless punishable as crimes assimilated to torture, under articles 243 and 244 of the Criminal Code.

84. The right to health is recognized in the Constitution, which provides that it is the duty of the State actively to ensure that this right is guaranteed and made effective through the development of policies designed to protect it. Furthermore, article 13 of the Constitution recognizes the right of all citizens to equality of treatment, by providing that no one may be privileged or harmed on grounds of sex.

II. ACTION TAKEN BY THE SPECIAL RAPPORTEUR UNDER HER TERMS OF REFERENCE

85. The Special Rapporteur expresses her satisfaction to the Government of the Netherlands with regard to certain measures that have been taken to create international public awareness of the harm caused by traditional practices, especially female genital mutilation. Following the submission of her report to the Sub-Commission at its forty-ninth session, the Special Rapporteur was approached by the Netherlands delegation, which sought her opinion on the desirability of submitting to the General Assembly at its fifty-second session a draft resolution on the subject of harmful traditional practices. Having strongly encouraged this initiative, the Special Rapporteur received a preliminary draft of this resolution prior to the opening of the General Assembly. Being present in New York during the session, the Special Rapporteur sought to contribute to the initiative of the Netherlands delegation, by developing awareness of the topic among delegations to the Third Committee and among the sponsors of the draft resolution submitted by the Netherlands.

86. The admirable work done by the Netherlands delegation made possible, for the first time in the annals of the General Assembly, the adoption of a resolution with 79 sponsors which included African and Asian countries.

87. Resolution 52/99 entitled "Traditional or customary practices affecting the health of women and girls" was adopted without a vote. In the operative part of the resolution, the General Assembly emphasized, inter alia:

(a) The need to improve women's position in society and to promote their economic independence;

(b) The need for national legislation and/or measures prohibiting harmful traditional practices;

(c) The responsibility of Governments for raising, in all sectors of society, awareness of the serious consequences of such practices, through education and the dissemination of information;

(d) The need to secure financial and technical assistance for developing countries from United Nations funds and programmes, as well as from international and regional financial institutions and bilateral and multilateral donors, for the purpose of assisting Governments in combating those practices.

The General Assembly called upon all States:

(a) To implement their national commitments in this field;

(b) To ratify, if they have not yet done so, the relevant human rights treaties, in particular those concerning women and children;

(c) To include specific information on measures taken to eliminate traditional or customary practices harmful to the health of women and girls in their reports to the Committee on the Elimination of Discrimination Against Women and to the Committee on the Rights of the Child;

(d) To support the activities of NGOs in this field;

(e) To cooperate closely with the Special Rapporteur of the Sub-Commission.

88. The General Assembly decided to invite the Commission on Human Rights to address this issue at its fifty-fourth session and requested the Secretary-General to report to it at its fifty-third session on the implementation of the resolution.

89. The Special Rapporteur is confident that this initiative taken by the Netherlands, which has finally brought the General Assembly to take a position on harmful traditional practices affecting women and the girl child, will be welcomed with satisfaction by the Sub-Commission.

90. Furthermore, the Special Rapporteur received from the Netherlands Ministry of Foreign Affairs a request for the contribution of material for the preparation of a book to be published, as part of the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights. This laudible initiative is also designed to raise funds which the Netherlands Government proposes to contibute to the United Nations Voluntary Fund for Victims of Torture and to lend financial support to the activities of the Special Ambassador of the United Nations Population Fund for the elimination of female genital mutilation. The Special Rapporteur was pleased to respond favourably to the request of the Netherlands Minister for Foreign Affairs.

91. A noteworthy development is the appointment, in September 1997, of the Special Ambassador of the United Nations Population Fund, who, in the same way as UNICEF and WHO, and often in coordination with them, plays a positive role in combating harmful traditional practices, and particularly female genital mutilation. The Special Rapporteur expresses the hope that the Special Ambassador of UNPF will be able, not only to contribute to the awareness campaign that has been launched internationally, but also to motivate Governments to show generosity and solidarity by funding all the activities and all the projects that are planned in countries where female genital mutilation occurs.

92. At the invitation of the Government of the Netherlands, the Special Rapporteur took part in the work of an international meeting of experts, held at The Hague from 3 to 5 February 1998, to consider the topic "Fiftieth anniversary of the Universal Declaration of Human Rights: prevention and control of violence against women". At this meeting the Special Rapporteur presented two papers on harmful traditional practices, as one of the meeting's Working Groups was dealing with this question.

93. The Special Rapporteur was also able to obtain at the meeting certain information that was useful for the preparation of the present report.

94. For example, the expert from Sweden reported on a strengthening of that country's legislation concerning female genital mutilation. Preparation of and conspiracy to commit the offence and failure to report cases of female genital mutilation to the authorities are now punishable. Consideration was also being given in Sweden to the possibility of expanding the area of criminal responsibility to any person who has carried out female genital mutilation outside Sweden.

95. The expert from Gambia reported that, in 1997, 1,000 girl children between the ages of three months and seven years had been mutilated in one region of the country. The Gambian Committee on Traditional Practices had taken action to inform and develop awareness among all sectors of society. Experience in the field had shown the importance of the role played by traditional midwives who also practised excision. Their incorporation in the system of health care and the provision to them of full information on the harm mutilation could cause and the furnishing of suitable information to them, had led many of these practitioners of excision to decide to cease carrying out these mutilations.

96. With regard to Gambia, the Sub-Commission will recall that, in submitting her report in 1997, the Special Rapporteur referred to the pressure exerted by certain powerful groups on Governments and on broadcasting authorities in order to oppose the awareness campaign that was being carried out to denounce the harm being caused by mutilation. In December 1997 the Special Rapporteur was informed of a change of attitude by the Governments, which had authorized the awareness campaigns and had given instructions to the radio authorities to allow the NGOs to make use of radio programmes to broadcast their messages concerning female genital mutilation.

97. The expert from Sudan had described all the actions that had been taken in order to eradicate harmful traditional practices. These activities, which were countrywide, were supported by the Government, as well as by other countries, United Nations bodies and international NGOs. The Sudanese National Committee on traditional practices affecting the health of women and children had set itself the objective of doing everything possible to eradicate or modify undesirable traditions, customs and behaviour in rural and urban areas by the year 2000. A further point to be noted is that the question of the eradication of female genital mutilation has been incorporated in the basic education curriculum and that relevant teaching has begun this year.

98. The conclusions of The Hague meeting were to be sent to the Commission on Human Rights and the Commission on the Status of Women.

99. The Special Rapporteur agreed to participate in the tenth francophone seminar held from 1 to 3 May 1998 by Soroptimist International of Europe, under the auspices of the Club de Bordeaux. At this meeting, held to consider the topic "Women and power: real power and alleged power on the eve of the third millennium", the Special Rapporteur submitted a paper on traditional practices affecting the health of women and the girl child.

III. ANALYSIS OF INFORMATION OBTAINED PERSONALLY BY THE SPECIAL RAPPORTEUR

100. Harmful traditional practices, including female genital mutilation, were referred to during 1997 and 1998 in a number of press and other media articles and comments. Despite the secrecy surrounding the practice, the Special Rapporteur learned that, according to a survey carried out in the United Arab Emirates, female excision is still practised in that country's society. According to the statistics obtained, 30.8 per cent of girls aged between one and five years have undergone excision. The operation is carried out discreetly and, while it was formerly performed by a Daya, it is now performed by women doctors in hospitals and dispensaries. One of the most important aspects of excision in the life of a young female is its confirmation of her femininity and her preparation for marriage.

101. In an article in the newspaper Le Monde of 12 May 1998, signed by Henriette Sarra, it is reported that "in the Indian Sub-continent, poverty and ignorance have driven millions of parents to suffocate their female babies or to poison them with extracts of plants. For generations it has been quite common for poor families to deprive their young daughters - but not their small sons - of food and care. For South East Asia as a whole it is estimated that this 'sexual genocide' has resulted in the death of some 60 million girls.". The author concludes by stating that this genocide, which is not regarded as such locally, does not give rise to general indignation.

102. A recently published study by UNICEF indicates that, as the statistics confirm, the tragedy of child malnutrition in part is due to the discrimination and powerlessness which are the lot of many women.

103. The International Herald Tribute of 30 March 1998 devoted a major article to the wretched fate of Hindu widows. In the view of many Indians, the pitiful condition of the country's 33 million widows, together with poverty, illiteracy and undernourishment, constitutes the darkest stain on the national conscience. "To be a Hindu widow in the 1990s is to suffer social death", observes Uma Chakravarty, a sociologist at the University of New Delhi. The real problem lies in the fact that it is customary for Hindu wives to live with the family of their spouse, cut off from any link with their own families. In many cases, this situation hands the wives over, bound hand and foot, to the parents-in-law, whose principal aim is to get rid of her at the first opportunity.

104. Although officially banned, the practice of suttee has survived, with occasional instances of widows who immolate themselves, either voluntarily or under compulsion. The reason for these immolations is the fact that the widow's property, often consisting of land, is coveted by the parents-in-law and sometimes even by the children of the widow. Much of the poverty experienced by Hindu widows for centuries is attributable to tnis economic factor.

105. A news item published in France early in 1998 announced tnat a couple from Mali, who had been found guilty of complicity in the carrying out of an excision operation on their daughter, received a suspended sentence of three and a half years' imprisonment from the Assize Court of Val-de-Marne, at

Creteil, outside Paris. In this trial, in which two cultures confronted one another, the court obviously found in favour of Western culture, which not only considers this practice barbaric, but often condemns it for reasons which, in reality, are not of a priority nature. Thus, when the Malian mother explained in her dialect that in Mali "sex is a taboo subject and we do not talk about it with our mothers", one of the experts, Dr. Danielle Gaudry, denounced the practice, which entailed the loss of sexual pleasure.

106. At another trial held in March 1993 in the Paris area, in which a Malian and his two wives were accused of having had excisions performed on their daughters in 1993, the Procurator, Céline Barel, challenging the isolation, lack of premeditation and ignorance pleaded by the accused, asserted that "subduing the sexual desire of females and preserving their virginity are useful for polygamists".

107. The Special Rapporteur is compelled to express reservations concerning such assertions, which show arrogance and contempt for things foreign, when one of the fundamental principles of the efforts to combat traditional practices is the need for prudence and tact, if the desired message is to be transmitted successfully, without causing hurt or offence. This, moreover, is the approach adopted in the field by all those engaged in this effort. To be convinced of this it is sufficient to read the bulletins published by the Inter-African Committee on Traditional Practices Affecting Women's and Children's Health. According to the President of CI-AF, it is possible, in the light of the countless information and training sessions held among the base population over the last 14 years, to state that "the harmful consequences of this practice for the physical and mental health of women and girls are now generally known and recognized".

108. After having held, in Addis Ababa in September 1997, a symposium for legislators with a view to the development of a legal consensus in Africa, the CI-AF plans to convene a meeting of eminent religious leaders in order to secure an official statement by the highest Islamic religious authorities. Such a statement should not give rise to any difficulties following the striking success recorded by the Egyptian authorities in December 1997.

109. It will be recalled that, at the last session of the Sub-Commission, the Special Rapporteur expressed her concern regarding the pressure exerted by certain extremist Islamists who had campaigned against the 1996 decree of the Egyptian Minister of Health prohibiting the practice of excision by members of the medical profession. In June 1997 the Administrative Court, by repealing this decree, showed that it shared their view. There were therefore grounds for pessimism. However, the Government did not give up and, on 28 December 1997, the Council of State settled the matter once and for all by deciding that it was "henceforth prohibited to practise excision even in cases where the girl and her parents give their consent". The Court stated that "Circumcision of girls is not a right of the individual under the Sharia ... Nothing in the Koran authorizes it", thus rejecting the opposite argument invoked by the extremists.

110. The Special Rapporteur welcomes this important decision which puts an end to all the controversy. The judgement is of capital importance in the efforts to end female genital mutilation, and this for two reasons. The first

is that the decision is of broader impact than the decree issued by the Minister of Health, which was addressed only to members of the medical profession, whereas now the practice is prohibited regardless of the position taken by the daughter and her parents. The second reason is that this condemnation of female genital mutilation by the Court of Appeal was pronounced in a country that has always been at the centre of Islamic jurisprudence and Islamic studies. Consequently, the court's decision puts an end to the manipulation of Islam and deals a fatal blow to those who justified circumcision on religious grounds. This constitutes a victory for women and for all those who have been working with such dedication to protect and defend them.

111. The Special Rapporteur must also mention another favourable development in relation to a traditional practice that is particularly dangerous for women: the so-called crimes of honour. In this connection, the Lebanese Government announced on 8 March, International Women's Day, that it planned to strengthen the law relating to these crimes by eliminating any attenuating circumstances. Hitherto, under article 152 of the Criminal Code, men who had committed crimes of honour against women members of their family had the benefit of attenuating circumstances. This provision will therefore disappear upon the adoption of the relevant amendments.

IV. CONCLUSION

112. It is regrettable that the lack of replies from Governments and particularly from those most concerned by harmful practices, has made it impossible for the Special Rapporteur to complete her task and to submit the substantial report she would have wished. This clearly shows the limited importance attached to the many and painful problems that are being experienced by a remarkably large number of women throughout the world. This failure to respond cannot and must not constitute an obstacle to the changes which must sooner or later be brought about.

113. However, the task will take all the longer if the resources made available at the international and national levels for this campaign are not commensurate with the work to be performed and are not adapted to the greater, more energetic and more effective efforts needed if useful progress and results are to be achieved.

114. Moreover, in view of the difficulties currently being encountered by the Special Rapporteur, the question logically arises whether a more effective formula should not be sought. The assistance furnished to the Special Rapporteur by the Office of the High Commissioner for Human Rights is extremely limited, in fact almost non-existent. The Special Rapporteur can rely only on herself in order to conduct research, analysis, the collection of information, translation, report preparation, etc. This inevitably results in deficiencies which the Special Rapporteur cannot overcome alone.

115. The successful execution of this enormous task requires a mobilization and a commitment of which the Special Rapporteur is capable but which should also be capable of development elsewhere. There is an Arab saying that "a single hand can only applaud", which leads the Special Rapporteur to conclude, while expressing her admiration for all those who do not yield to the

adversity and obstacles they encounter every day on the path they have deliberately chosen with the aim of overcoming harmful prejudices, customs and traditions that no longer have any place in our society.

116. At all levels, both national and international, political determination and generosity must be shown, so that greater and more effective assistance and support will be provided. What is needed now is not words but action, sustained and continuous action, without any restrictions, budgetary obstacles or hesitation. This is the price that must be paid for the elimination of traditional discriminatory practices and the elimination of the suffering, servitude and humiliation that are currently being experienced by so many women and children.